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HOUSE BILL 301

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

R. DAVID PEDERSON

AN ACT

RELATING TO TAXATION; AUTHORIZING IMPOSITION OF A LOCAL OPTION
COUNTY GROSS RECEIPTS TAX FOR COUNTY JAIL AND JUVENILE
DETENTION PURPOSES; REQUIRING VOTER APPROVAL OF THE TAX;
AUTHORIZING ISSUANCE OF GROSS RECEIPTS TAX REVENUE BONDS;
AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the County Local Option
Gross Receipts Taxes Act is enacted to read:

" NEW MATERIAL COUNTY JAIL AND JUVENILE DETENTION GROSS
RECEIPTS TAX-- AUTHORITY TO IMPOSE-- USE OF PROCEEDS--
REFERENDUM --

A. The majority of the members of the governing
body may enact an ordinance imposing an excise tax at a rate
not to exceed one percent of the gross receipts of any person

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1 engaging in business in the county for the privilege of
2 engaging in business. A tax imposed pursuant to this section
3 shall be imposed by the enactment of one or more ordinances,
4 each imposing any number of one-fourth of one percent county
5 gross receipts tax rate increments, but the total tax rate
6 imposed by all ordinances shall not exceed an aggregate rate
7 of one percent of the gross receipts of a person engaging in
8 business.

9 B. The tax imposed pursuant to Subsection A of
10 this section may be referred to as the "county jail and
11 juvenile detention gross receipts tax".

12 C. At the time of enacting the ordinance imposing
13 the tax authorized in this section, the governing body shall
14 dedicate the revenue for specified county jail and juvenile
15 detention purposes. Such purposes may include planning,
16 design, construction, equipping, maintenance or operation of a
17 county jail or juvenile detention facility; planning,
18 assessment, design or operation of a regional system of
19 juvenile services, including secure detention and nonsecure
20 alternatives, that serves multiple contiguous counties;
21 planning, design, construction, maintenance or operation of
22 multipurpose regional adult jails or juvenile detention
23 facilities; housing of county prisoners or juvenile offenders
24 in any county jail or detention facility; or substance abuse,
25 mental health or other programs for county prisoners or other

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1 inmates in county jails or for juvenile offenders in county or
2 regional detention facilities.

3 D. An ordinance enacted pursuant to this section
4 shall not go into effect until after an election is held and a
5 majority of the voters in the county voting in the election
6 votes in favor of imposing the county jail and juvenile
7 detention gross receipts tax. The governing body shall adopt
8 a resolution calling for an election within seventy-five days
9 of the date the ordinance is adopted on the question of
10 imposing the tax. The question may be submitted to the voters
11 of the county at a special election called for that purpose by
12 the governing body or at a general election, if the election
13 occurs within seventy-five days after the date of the
14 resolution. Any special election held shall be called,
15 conducted and canvassed in substantially the same manner as
16 provided by law for general elections. If a majority of the
17 voters voting on the question approves the imposition of a
18 county jail and juvenile detention gross receipts tax, then
19 the ordinance shall become effective in accordance with the
20 provisions of the County Local Option Gross Receipts Taxes
21 Act. If the question of imposing a county jail and juvenile
22 detention gross receipts tax fails, the governing body shall
23 not again propose a county jail and juvenile detention gross
24 receipts tax for a period of one year after the date of the
25 election.

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1 E. Any ordinance changing the rate or specified
2 purpose of the county jail and juvenile detention gross
3 receipts tax shall not go into effect until an election is
4 called on the question pursuant to the provisions of
5 Subsection D of this section.

6 F. Any law that imposes or authorizes the
7 imposition of a county jail and juvenile detention gross
8 receipts tax or that affects the county jail and juvenile
9 detention gross receipts tax, or any law supplemental or
10 pertaining to that tax, shall not be repealed or amended or
11 otherwise directly or indirectly modified in such a manner as
12 to impair adversely any outstanding revenue bonds that may be
13 secured by a pledge of the county jail and juvenile detention
14 gross receipts tax unless such outstanding revenue bonds have
15 been discharged in full or provision has been fully made for
16 such discharge. "

17 Section 2. Section 4-62-1 NMSA 1978 (being Laws 1992,
18 Chapter 95, Section 1, as amended) is amended to read:

19 "4-62-1. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF
20 REVENUES--LIMITATION ON TIME OF ISSUANCE.--

21 A. In addition to any other law authorizing a
22 county to issue revenue bonds, a county may issue revenue
23 bonds pursuant to Chapter 4, Article 62 NMSA 1978 for the
24 purposes specified in this section. The term "pledged
25 revenues", as used in Chapter 4, Article 62 NMSA 1978, means

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1 the revenues, net income or net revenues authorized to be
2 pledged to the payment of particular revenue bonds as
3 specifically provided in Subsections B through [J] K of this
4 section.

5 B. Gross receipts tax revenue bonds may be issued
6 for [any] one or more of the following purposes:

7 (1) constructing, purchasing, furnishing,
8 equipping, rehabilitating, making additions to or making
9 improvements to one or more public buildings or purchasing or
10 improving [any] ground relating thereto, including but not
11 necessarily limited to acquiring and improving parking lots,
12 or any combination of the foregoing;

13 (2) acquiring or improving county or public
14 parking lots, structures or facilities or any combination of
15 the foregoing;

16 (3) purchasing, acquiring or rehabilitating
17 firefighting equipment or any combination of the foregoing;

18 (4) acquiring, extending, enlarging,
19 bettering, repairing, otherwise improving or maintaining storm
20 sewers and other drainage improvements, sanitary sewers,
21 sewage treatment plants or water utilities, including but not
22 limited to the acquisition of rights of way and water and
23 water rights or any combination of the foregoing;

24 (5) reconstructing, resurfacing, maintaining,
25 repairing or otherwise improving existing alleys, streets,

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1 roads or bridges or any combination of the foregoing or laying
2 off, opening, constructing or otherwise acquiring new alleys,
3 streets, roads or bridges or any combination of the foregoing;
4 provided that any of the foregoing improvements may include
5 the acquisition of rights of way;

6 (6) purchasing, acquiring, constructing,
7 making additions to, enlarging, bettering, extending or
8 equipping airport facilities or any combination of the
9 foregoing, including without limitation the acquisition of
10 land, easements or rights of way;

11 (7) purchasing or otherwise acquiring or
12 clearing land or purchasing, otherwise acquiring and
13 beautifying land for open space;

14 (8) acquiring, constructing, purchasing,
15 equipping, furnishing, making additions to, renovating,
16 rehabilitating, beautifying or otherwise improving public
17 parks, public recreational buildings or other public
18 recreational facilities or any combination of the foregoing;
19 or

20 (9) acquiring, constructing, extending,
21 enlarging, bettering, repairing or otherwise improving or
22 maintaining solid waste disposal equipment, equipment for
23 operation and maintenance of sanitary landfills, sanitary
24 landfills, solid waste facilities or any combination of the
25 foregoing.

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1 A county may pledge irrevocably any or all of the revenue
2 from the first one-eighth of one percent increment of the
3 county gross receipts tax for payment of principal and
4 interest due in connection with, and other expenses related
5 to, gross receipts tax revenue bonds for any of the purposes
6 authorized in this section or specific purposes or for any
7 area of county government services. If the county gross
8 receipts tax revenue from the first one-eighth of one percent
9 increment of the county gross receipts tax is pledged for
10 payment of principal and interest as authorized by this
11 subsection, the pledge shall require the revenues received
12 from that increment of the county gross receipts tax to be
13 deposited into a special bond fund for payment of the
14 principal, interest and expenses. At the end of each fiscal
15 year, ~~any~~ money remaining in the special bond fund after the
16 annual obligations for the bonds are fully met may be
17 transferred to any other fund of the county.

18 C. Fire protection revenue bonds may be issued for
19 acquiring, extending, enlarging, bettering, repairing,
20 improving, constructing, purchasing, furnishing, equipping or
21 rehabilitating any independent fire district project or
22 facilities, including, where applicable, purchasing, otherwise
23 acquiring or improving the ground for the project or any
24 combination of such purposes. A county may pledge irrevocably
25 any or all of the county fire protection excise tax revenue

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1 for payment of principal and interest due in connection with,
2 and other expenses related to, fire protection revenue bonds.
3 These bonds may be referred to in Chapter 4, Article 62 NMSA
4 1978 as "fire protection revenue bonds".

5 D. Environmental revenue bonds may be issued for
6 the acquisition and construction of solid waste facilities,
7 water facilities, wastewater facilities, sewer systems and
8 related facilities. A county may pledge irrevocably any or
9 all of the county environmental services gross receipts tax
10 revenue for payment of principal and interest due in
11 connection with, and other expenses related to, environmental
12 revenue bonds. These bonds may be referred to in Chapter 4,
13 Article 62 NMSA 1978 as "environmental revenue bonds".

14 E. Gasoline tax revenue bonds may be issued for
15 the acquisition of rights of way for and the construction,
16 reconstruction, resurfacing, maintenance, repair or other
17 improvement of county roads and bridges. A county may pledge
18 irrevocably any or all of the county gasoline tax revenue for
19 payment of principal and interest due in connection with, and
20 other expenses related to, county gasoline tax revenue bonds.
21 These bonds may be referred to in Chapter 4, Article 62 NMSA
22 1978 as "gasoline tax revenue bonds".

23 F. Utility revenue bonds or joint utility revenue
24 bonds may be issued for acquiring, extending, enlarging,
25 bettering, repairing or otherwise improving water facilities,

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1 sewer facilities, gas facilities or electric facilities or for
2 any combination of the foregoing purposes. A county may
3 pledge irrevocably any or all of the net revenues from the
4 operation of the utility or joint utility for which the
5 particular utility or joint utility bonds are issued to the
6 payment of principal and interest due in connection with, and
7 other expenses related to, utility or joint utility revenue
8 bonds. These bonds may be referred to in Chapter 4, Article
9 62 NMSA 1978 as "utility revenue bonds" or "joint utility
10 revenue bonds".

11 G. Project revenue bonds may be issued for
12 acquiring, extending, enlarging, bettering, repairing,
13 improving, constructing, purchasing, furnishing, equipping or
14 rehabilitating any revenue-producing project, including, as
15 applicable, purchasing, otherwise acquiring or improving the
16 ground therefor and including but not limited to acquiring and
17 improving parking lots, or may be issued for any combination
18 of the foregoing purposes. The county may pledge irrevocably
19 any or all of the net revenues from the operation of the
20 revenue-producing project for which the particular project
21 revenue bonds are issued to the payment of the interest on and
22 principal of the project revenue bonds. The net revenues of
23 any revenue-producing project may not be pledged to the
24 project revenue bonds issued for any other revenue-producing
25 project that is clearly unrelated in nature; but nothing in

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1 this subsection prevents the pledge to any of the project
2 revenue bonds of any revenues received from any existing,
3 future or disconnected facilities and equipment that are
4 related to and that may constitute a part of the particular
5 revenue-producing project. A general determination by the
6 governing body that facilities or equipment are reasonably
7 related to and constitute a part of a specified revenue-
8 producing project shall be conclusive if set forth in the
9 proceedings authorizing the project revenue bonds. As used in
10 Chapter 4, Article 62 NMSA 1978:

11 (1) "project revenue bonds" means the bonds
12 authorized in this subsection; and

13 (2) "project revenues" means the net revenues
14 of revenue-producing projects that may be pledged to project
15 revenue bonds pursuant to this subsection.

16 H. Fire district revenue bonds may be issued for
17 acquiring, extending, enlarging, bettering, repairing,
18 improving, constructing, purchasing, furnishing, equipping and
19 rehabilitating any fire district project, including, where
20 applicable, purchasing, otherwise acquiring or improving the
21 ground therefor, or for any combination of the foregoing
22 purposes. The county may pledge irrevocably any or all of the
23 revenues received by the fire district from the fire
24 protection fund as provided in Sections 59A-53-1 through
25 59A-53-17 NMSA 1978 and any or all of the revenues provided

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1 for the operation of the fire district project for which the
2 particular bonds are issued to the payment of the interest on
3 and principal of such bonds. The revenues of a fire district
4 project shall not be pledged to the bonds issued for a fire
5 district project that clearly is unrelated in its purpose; but
6 nothing in this section shall prevent the pledge to any of
7 such bonds of any such revenues received from any existing,
8 future or [øf] disconnected facilities and equipment that are
9 related to and that may constitute a part of the particular
10 fire district project. A general determination by the
11 governing body of the county that facilities or equipment are
12 reasonably related to and constitute a part of a specified
13 fire district project shall be conclusive if set forth in the
14 proceedings authorizing the fire district bonds.

15 I. Law enforcement protection revenue bonds may be
16 issued for the repair and purchase of law enforcement
17 apparatus and equipment that meet nationally recognized
18 standards. The county may pledge irrevocably any or all of
19 the revenues received by the county from the law enforcement
20 protection fund distributions pursuant to Sections 29-13-1
21 through 29-13-9 NMSA 1978 to the payment of the interest on
22 and principal of the law enforcement protection revenue bonds.

23 J. Hospital emergency gross receipts tax revenue
24 bonds may be issued for acquisition, equipping, remodeling or
25 improvement of a county hospital facility. A county may

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1 pledge irrevocably, to the payment of the interest on and
2 principal of the hospital emergency gross receipts tax revenue
3 bonds, any or all of the revenues received by the county from
4 a county hospital emergency gross receipts tax imposed
5 pursuant to Section 7-20E-12.1 NMSA 1978 and dedicated to
6 payment of bonds or a loan for acquisition, equipping,
7 remodeling or improvement of a county hospital facility.

8 K. County corrections gross receipts tax revenue
9 bonds may be issued for the acquisition, design, construction,
10 equipping, renovation or improvement of county jails or
11 juvenile detention facilities, including regional facilities
12 to which the county is a party. A county may pledge
13 irrevocably any or all of the county jail and juvenile
14 detention gross receipts tax revenue to the payment of the
15 interest on and principal of the county corrections gross
16 receipts tax revenue bonds for any of the purposes authorized
17 in this subsection.

18 [~~K.~~] L. Except for the purpose of refunding
19 previous revenue bond issues, no county may sell revenue bonds
20 payable from pledged revenue after the expiration of two years
21 from the date of the ordinance authorizing the issuance of the
22 bonds or, for bonds to be issued and sold to the New Mexico
23 finance authority as authorized in Subsection C of Section
24 4-62-4 NMSA 1978, after the expiration of two years from the
25 date of the resolution authorizing the issuance of the bonds.

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1 However, any period of time during which a particular revenue
2 bond issue is in litigation shall not be counted in
3 determining the expiration date of that issue.

4 [L-] M No bonds may be issued by a county, other
5 than an H class county, a class B county as defined in Section
6 4-36-8 NMSA 1978 or a class A county as described in Section
7 4-36-10 NMSA 1978, to acquire, equip, extend, enlarge, better,
8 repair or construct [~~any~~] a utility unless the utility is
9 regulated by the New Mexico public utility commission pursuant
10 to the Public Utility Act and the issuance of the bonds is
11 approved by the commission. For purposes of Chapter 4,
12 Article 62 NMSA 1978, a "utility" includes but is not limited
13 to [~~any~~] a water, wastewater, sewer, gas or electric utility
14 or joint utility serving the public. H class counties shall
15 obtain New Mexico public utility commission approvals required
16 by Section 3-23-3 NMSA 1978.

17 [M-] N. Any law that imposes or authorizes the
18 imposition of a county gross receipts tax, a county
19 environmental services gross receipts tax, a county fire
20 protection excise tax, the gasoline tax, a county jail and
21 juvenile detention gross receipts tax or the county hospital
22 emergency gross receipts tax, or that affects any of those
23 taxes, shall not be repealed or amended in such a manner as to
24 impair [~~any~~] outstanding revenue bonds that are issued
25 pursuant to Chapter 4, Article 62 NMSA 1978 and that may be

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1 secured by a pledge of those taxes unless the outstanding
2 revenue bonds have been discharged in full or provision has
3 been fully made therefor.

4 [N.] 0. As used in this section:

5 (1) "county jail and juvenile detention gross
6 receipts tax revenue" means the revenue from the county jail
7 and juvenile detention gross receipts tax transferred to the
8 county pursuant to Section 7-1-6.13 NMSA 1978;

9 [~~(1)~~] (2) "county environmental services
10 gross receipts tax revenue" means the revenue from the county
11 environmental services gross receipts tax transferred to the
12 county pursuant to Section 7-1-6.13 NMSA 1978;

13 [~~(2)~~] (3) "county fire protection excise tax
14 revenue" means the revenue from the county fire protection
15 excise tax transferred to the county pursuant to Section
16 7-1-6.13 NMSA 1978;

17 [~~(3)~~] (4) "county gross receipts tax revenue"
18 means the revenue attributable to the first one-eighth of one
19 percent increment of the county gross receipts tax transferred
20 to the county pursuant to Section 7-1-6.13 NMSA 1978 and any
21 distribution related to the first one-eighth of one percent
22 made pursuant to Section 7-1-6.16 NMSA 1978;

23 [~~(4)~~] (5) "gasoline tax revenue" means the
24 revenue from that portion of the gasoline tax distributed to
25 the county pursuant to Sections 7-1-6.9 and 7-1-6.26 NMSA

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1 1978; and

2 [~~(5)~~] (6) "public building" includes but is
3 not limited to fire stations, police buildings, jails,
4 libraries, museums, auditoriums, convention halls, hospitals,
5 buildings for administrative offices, courthouses and garages
6 for housing, repairing and maintaining county vehicles and
7 equipment.

8 [~~0-~~] P. As used in Chapter 4, Article 62 NMSA
9 1978, the term "bond" means any obligation of a county issued
10 under Chapter 4, Article 62 NMSA 1978, whether designated as a
11 bond, note, loan, warrant, debenture, lease-purchase agreement
12 or other instrument evidencing an obligation of a county to
13 make payments. "

1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

3
4
5
6 February 13, 1998

7
8 Mr. Speaker:

9
10 Your TAXATION AND REVENUE COMMITTEE, to whom has
11 been referred

12
13 HOUSE BILLS 127, 243, 299, 301, 443 and 450

14
15 has had them under consideration and reports same with
16 recommendation that they DO NOT PASS, but that

17 HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
18 HOUSE BILLS 127, et al

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20 DO PASS, and thence referred to the APPROPRIATIONS AND
21 FINANCE COMMITTEE.

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

HTRC/CSHB 127, et al

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Respectfully submitted,

Jerry W. Sandel, Chairman

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 6 For 1 Against

Yes: 6

No: Russell

Excused: Crook, Gonzales, Lovejoy, Lujan, Sandel

Abstained: Stell

Absent: None

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FORTY-THIRD LEGISLATURE
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HTRC/CSHB 127, et al

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